



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-021]

Melamine from the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Commerce.

SUMMARY: The Department of Commerce ("Department") determines that countervailable subsidies are being provided to producers and exporters of melamine from the People's Republic of China ("PRC"). For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice.

DATES: *Effective:* [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Andrew Medley, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202-482-4987.

SUPPLEMENTARY INFORMATION:

Background

The petitioner to this investigation is Cornerstone Chemical Company ("Petitioner"). The Department selected five mandatory respondents; Far-Reaching Chemical Co., Ltd. ("Far-Reaching Chemical"), Zhongyuan Dahua Group Co., Ltd. ("Zhongyuan Dahua"), Qingdao Unichem International Trade Co., Ltd. ("Qingdao Unichem"), M and A Chemicals Corp China ("M&A Chemicals"), and Shandong Liaherd Chemical Industry Co., Ltd. ("Shandong Liaherd"). All five mandatory respondents and the Government of the PRC refused to participate in this investigation.

Period of Investigation

The period of investigation for which we are measuring subsidies is January 1, 2013, through December 31, 2013.

Case History

The Department published its *Preliminary Determination* on April 20, 2015.¹ In it, the Department applied an adverse inference to find that the programs on which the Department initiated this investigation and the programs which the Department subsequently included in this investigation pursuant to allegations made by Petitioner,² are countervailable. Further, the Department applied an adverse inference in its calculation of the *ad valorem* estimated countervailable subsidy rate for Far-Reaching Chemical, Zhongyuan Dahua, Qingdao Unichem, M&A Chemicals, and Shandong Liaherd. The Department invited, but did not receive, interested party comments on the *Preliminary Determination*. Thus, we have made no changes from the *Preliminary Determination* with respect to the determination to apply adverse inferences. However, as explained below, we made certain changes to the *ad valorem* final subsidy rate.

Also in the *Preliminary Determination*, pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended (“the Act”) and 19 CFR 351.210(b)(4), we aligned the final countervailing duty (“CVD”) determination with the final antidumping duty (“AD”) determination. On July 2,

¹ See *Melamine From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Determination With Final Antidumping Duty Determination*, 80 FR 21706 (April 20, 2015) (“*Preliminary Determination*”), and the accompanying Preliminary Decision Memorandum.

² See the Department’s memorandum entitled “Countervailing Duty Investigation on Melamine from the People’s Republic of China: January 27, 2015 New Subsidy Allegations,” dated March 25, 2015.

2015, the Department postponed the final AD determination (and, thus, the instant, aligned, CVD determination) until November 2, 2015.³

Scope of the Investigation

The merchandise subject to this investigation is melamine (Chemical Abstracts Service (“CAS”) registry number 108-78-01, molecular formula $C_3H_6N_6$).⁴ Melamine is a crystalline powder or granule typically (but not exclusively) used to manufacture melamine formaldehyde resins. All melamine is covered by the scope of this investigation irrespective of purity, particle size, or physical form. Melamine that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled, but that have not been chemically reacted with each other to produce a different product. For such blends, only the melamine component of the mixture is covered by the scope of this investigation. Melamine that is otherwise subject to this investigation is not excluded when commingled with melamine from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The subject merchandise is provided for in subheading 2933.61.0000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

Use of Facts Otherwise Available, Including Adverse Inferences

For purposes of this final determination, we relied on facts available and applied an adverse inference, in accordance with sections 776(a) and (b) of the Act, with regard to (1) the

³ See *Melamine from the People’s Republic of China: Postponement of Final Determination of Sales at Less Than Fair Value*, 80 FR 38175 (July 02, 2015).

⁴ Melamine is also known as 2,4,6-triamino-s-triazine; 1,3,5-Triazine-2,4,6-triamine; Cyanurotriamide; Cyanurotriamine; Cyanuramide; and by various brand names.

existence of a financial contribution, benefit, and specificity for the alleged subsidy programs and (2) the net subsidy rates assigned to Far-Reaching Chemical, Zhongyuan Dahua, Qingdao Unichem, M&A Chemicals, and Shandong Liaherd. A full discussion of our decision to rely on adverse facts available (“AFA”) is presented in the Preliminary Decision Memorandum under the section “Use of Facts Otherwise Available and Adverse Inferences.” However, for this final determination we are making certain changes to the AFA rates.⁵ Specifically, we are revising the AFA rates for “Preferential Export Financing from the Export-Import Bank of China” and “Reduced Fee Export Insurance” to reflect the highest calculated CVD rates for these programs.⁶

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we have calculated individual rates for Far-Reaching Chemical, Zhongyuan Dahua, Qingdao Unichem, M&A Chemicals, and Shandong Liaherd. Section 705(c)(5)(A)(i) of the Act states that for companies not individually investigated, we will determine an “all-others” rate equal to the weighted average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and *de minimis* countervailable rates, and any rates determined entirely under section 776 of the Act. Section 705(c)(5)(A)(ii) of the Act states that if the countervailable subsidy rates for all exporters and producers individually investigated are zero or *de minimis* rates, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish an all-others rate for exporters and producers not individually

⁵ See Memorandum to the File titled “Melamine from the People’s Republic of China: Final Calculations,” dated November 2, 2015.

⁶ *Id.* See also *Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires From the People’s Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part*, 80 FR 34888 (June 18, 2015), and accompanying issues and decision memorandum (where we calculated a rate of 4.25 percent for the similar program “Export Seller’s Credits from the Export Import Bank of China”), unchanged in *Certain Passenger Vehicle and Light Truck Tires From the People’s Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 47902 (August 10, 2015).

investigated, including averaging the weighted average countervailable subsidy rates determined for the exporters and producers individually investigated. As described above, all of the mandatory respondents' subsidy rates were calculated entirely under section 776 of the Act. Therefore, we have resorted to “any reasonable method” to derive the “all-others” rate, as described under section 705(c)(5)(A)(ii) of the Act. We are basing the “all-others” rate on the simple average of the five rates determined for the mandatory respondents, consistent with section 705(c)(5)(A)(ii) of the Act.⁷

We determine the total estimated net countervailable subsidy rates to be:

Company	Subsidy Rate (percent)
Far-Reaching Chemical Co., Ltd.	154.00
M and A Chemicals Corp China	154.00
Qingdao Unichem International Trade Co., Ltd.	154.00
Shandong Liaherd Chemical Industry Co., Ltd.	156.90 ⁸
Zhongyuan Dahua Group Co., Ltd.	154.00
All Others	154.58

As a result of our *Preliminary Determination*, and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of melamine from the PRC that were entered or withdrawn from warehouse, for consumption on or after April 20, 2015, the date of publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or

⁷ See, e.g., *Carbon and Certain Alloy Steel Wire Rod From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 79 FR 68858 (November 19, 2014).

⁸ See Preliminary Decision Memorandum at 7, where we explained that the AFA rate applicable to Shandong Liaherd includes additional grant programs applicable only to Shandong Liaherd based upon information contained in Shandong's Liaherd's financial statements. See also “Initiation Checklist: Melamine from the People's Republic of China” (December 2, 2014).

withdrawn from warehouse, on or after August 18, 2015, but to continue the suspension of liquidation of all entries from April 20, 2015, through August 17, 2015.

If the U.S. International Trade Commission (“ITC”) issues a final affirmative injury determination, we will issue a CVD order and reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms it will not disclose such information, either publicly or under an administrative protective order (“APO”), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 30, 2015.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

BILLING CODE 3510-DS-P

[FR Doc. 2015-28351 Filed: 11/5/2015 8:45 am; Publication Date: 11/6/2015]